



Town Council Agenda Report

SUBJECT: Quasi Judicial Hearing: Variance

CONTACT PERSON/NUMBER

Name: Mark Kutney, AICP
Phone: (954) 797-1101

TITLE OF AGENDA ITEM:

V 3-1-00 Pillar Development, Inc., petitioner/Thomas and Milena Frazer, owner - Address 12710 SW 34th Place/Generally located on the west side of Flamingo Road, approximately 4,600 feet north of Orange Drive.

REPORT IN BRIEF:

At the time of building permit application for this home, the developer had submitted a survey/plot plan which indicated that all setbacks were being met, along with all other required building permit requirements. Therefore, a C.O. was issued in 1996. Subsequent to the issuance of a C.O., the petitioner intended to submit a building permit application to the Town of Davie for construction of a pool and fence on this site. Upon preliminary preparation of the required survey documents, the developer identified that a surveyors error had occurred on the east property line during the time of development of the dwelling unit. This created a violation of the east side yard setback for the home. Therefore, the developer, on behalf of the petitioner, is requesting a variance for a reduction in the required east side yard setback from 25 feet to 21.6 feet at the northeast corner of the existing structure and 21.9 feet at the southeast corner of the existing structure in order to eliminate the encumbrance on the property should sale of the unit occur in the future. This survey error also affects the adjacent property to the east (lot 28, according to the petitioner), however, the developer has been unable to obtain the owners consent for submittal of a variance on lot 28. Therefore, a future variance request can be expected for lot 28.

A signed and sealed survey is required as part of a building permit application for construction of all structures within the Town of Davie. The embossment of the surveyors professional seal certifies that the information given on a survey is accurate to the best of their knowledge. If found to be inaccurate, the surveyor is responsible for the inaccuracy. Therefore, the surveyors error was not a self-created hardship by the property owner and can be considered to meet the test for a hardship.

The intent of the side yard setback within the R-1 District is to provide for an open space area between units of 50 feet (25 feet per lot). If approved, this request would reduce the required 50 foot open space area to 46.4 feet, given the adjacent unit to the east has a west side setback of 25.2 feet. Staff believes this meets the general intent of the code and is limited to a minimum request necessary for the purpose of the variance sought.

Staff also believes, there are special circumstances which apply to this site which generally do not apply to other lots within the same zoning district, is not self-created by the owner and can be considered to be a hardship, and will not be harmful to the general welfare of the public.

PREVIOUS ACTIONS: None.

CONCURRENCES: The Planning and Zoning Board recommended approval of application V 3-1-00 at its April 12, 2000 meeting (motion carried 4-0, Chairman Greb absent).

FISCAL IMPACT: Not Applicable.

RECOMMENDATION(S): Motion to approve.

Attachment(s): Planning Report, Subject Site Plot Plan, Land Use Map, Subject Site Map, and Aerial.

Application #: V 3-1-00

Revisions:

Exhibit "A":

Original Report Date: 4/12/00

**TOWN OF DAVIE
Development Services Department
Planning & Zoning Division Staff
Report and Recommendation**

APPLICANT INFORMATION

Owner:

Name: Thomas & Milena Frazer
Address: 12710 SW 34th Place
City: Davie, FL 33330
Phone: (954) 382-2230

Agent:

Name: Pillar Development, Inc.
Address: 5400 S. University Drive,
Suite 101
City: Davie, FL 33328
Phone: (954) 680-6533

BACKGROUND INFORMATION

Application Request: To reduce the required side setback on an existing structure from 25 feet to 21.6 feet on the northeast corner and 21.9 feet on the southeast corner of the unit.

Address/Location: 12710 SW 34th Place/Generally located on the west side of Flamingo Road, approximately 4,600 feet north of Orange Drive.

Future Land Plan Use Designation: Residential (1 du/ac)

Zoning: R-1, Estate Dwelling District

Existing Use: Single Family Dwelling Unit

Proposed Use: Single Family Dwelling Unit

Parcel Size: .8688 acres (37,845 square feet)

Surrounding Uses:
North: Single family, across SW 34 Place
South: Vacant land
East: Single family dwelling unit
West: Single family dwelling unit

Surrounding Land Use:
Residential (1 du/ac)
Residential (1 du/ac)
Residential (1 du/ac)
Residential (1 du/ac)

Surrounding Zoning:

North: R-1, Estate Dwelling District, across SW 34 Place

South: R-1, Estate Dwelling District
East: R-1, Estate Dwelling District
West: R-1, Estate Dwelling District

ZONING HISTORY

Related Zoning History: None.

Previous Request on same property: None.

DEVELOPMENT PLAN DETAILS

This site includes an existing 3,643 square foot single family dwelling unit on a lot 37,845 square feet in area. Approximately 2,594 square feet of this lot contains water with the remaining 35,251 square feet as dry land. This lot meets the minimum required dry lot area.

Applicable Codes and Ordinances

Section 12-81, which requires a minimum side yard setback of 25 feet within the R-1, Estate Dwelling District.

Comprehensive Plan Considerations

Planning Area: The subject property falls within Planning Area 2. This area includes the westernmost section of the Town north of Orange Drive and south of SW 14th Street, and bound on the west by Interstate 75 and on the east by Flamingo Road. The predominant existing and planned land use is single-family residential at a density of one dwelling per acre. A major landholding, Imagination Farms, constitutes the last remaining dairy operation in Davie. Development of 400 single-family homes is taking place on approximately half the site. Development of the remainder of the site is imminent. This planning area contains small subdivisions of one-acre lots. Several larger parcels are currently being platted, in preparation for marketing or development as estate residences.

Broward County Comprehensive Plan Considerations

This property falls within flexibility Zone 113. This request has no affect on Broward County concurrency.

Staff Analysis

At the time of building permit application for this home, the developer had submitted a survey/plot plan which indicated that all setbacks were being met, along with all other required building permit requirements. Therefore, a C.O. was issued in 1996. Subsequent to the issuance of a C.O., the petitioner intended to submit a building permit application to the Town of Davie for construction of a pool and fence on this site. Upon preliminary preparation of the required survey documents, the developer identified that a surveyors error had occurred on the east property line during the time of development of the dwelling unit. This created a violation of the east side yard setback for the home. Therefore, the developer, on behalf of the petitioner, is requesting a variance for a reduction in the required

east side yard setback in order to eliminate the encumbrance on the property should sale of the unit occur in the future.

This survey error also affects the adjacent property to the east (lot 28, according to the petitioner), however, the developer has been unable to obtain the owners consent for submittal of a variance on lot 28. Therefore, a future variance will be required for lot 28.

A signed and sealed survey is required as part of a building permit application for construction of all structures within the Town of Davie. The embossment of the surveyors professional seal certifies that the information given on a survey is accurate to the best of their knowledge. If found to be inaccurate, the surveyor is responsible for the inaccuracy. Therefore, the surveyors error was not a self-created hardship by the property owner and can be considered to meet the test for a hardship.

The intent of the side yard setback within the R-1 District is to provide for an open space area between units of 50 feet (25 feet per lot). If approved, this request would reduce the required 50 foot open space area to 46.4 feet, given the adjacent unit to the east has a west side setback of 25.2 feet. Staff believes this meets the general intent of the code and is limited to a minimum request necessary for the purpose of the variance sought.

Staff also believes, there are special circumstances which apply to this site which generally do not apply to other lots within the same zoning district, is not self-created by the owner and can be considered to be a hardship, and will not be harmful to the general welfare of the public.

Findings of Fact

Variances:

Section 12-309(B)(1):

(a) There are special circumstances and conditions applying to the land and building for which the variance is sought; the circumstances or conditions are peculiar to such land or building and do apply generally to land or buildings in the same district, and that said circumstances or conditions are such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of such land or building for which the variance is sought. The alleged hardship, however, can be considered to be self-created only by the developer, having an interest in the property, but not self-created by the current owner who relied on the development professionals to provide accurate information;

(b) The granting of the variance is necessary for the reasonable use of the land or building and that the variance as requested is the minimum variance that will accomplish this purpose;

(c) Granting of the requested variances is in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

Staff Recommendation

Recommendation: Based upon the above and the finding of facts in the positive, staff recommends **approval** of the request to reduce the minimum side yard setback from 25 feet to 21.6 feet at the northeast corner and 21.9 feet at the southeast corner of the existing unit, for

Planning and Zoning Board Recommendation

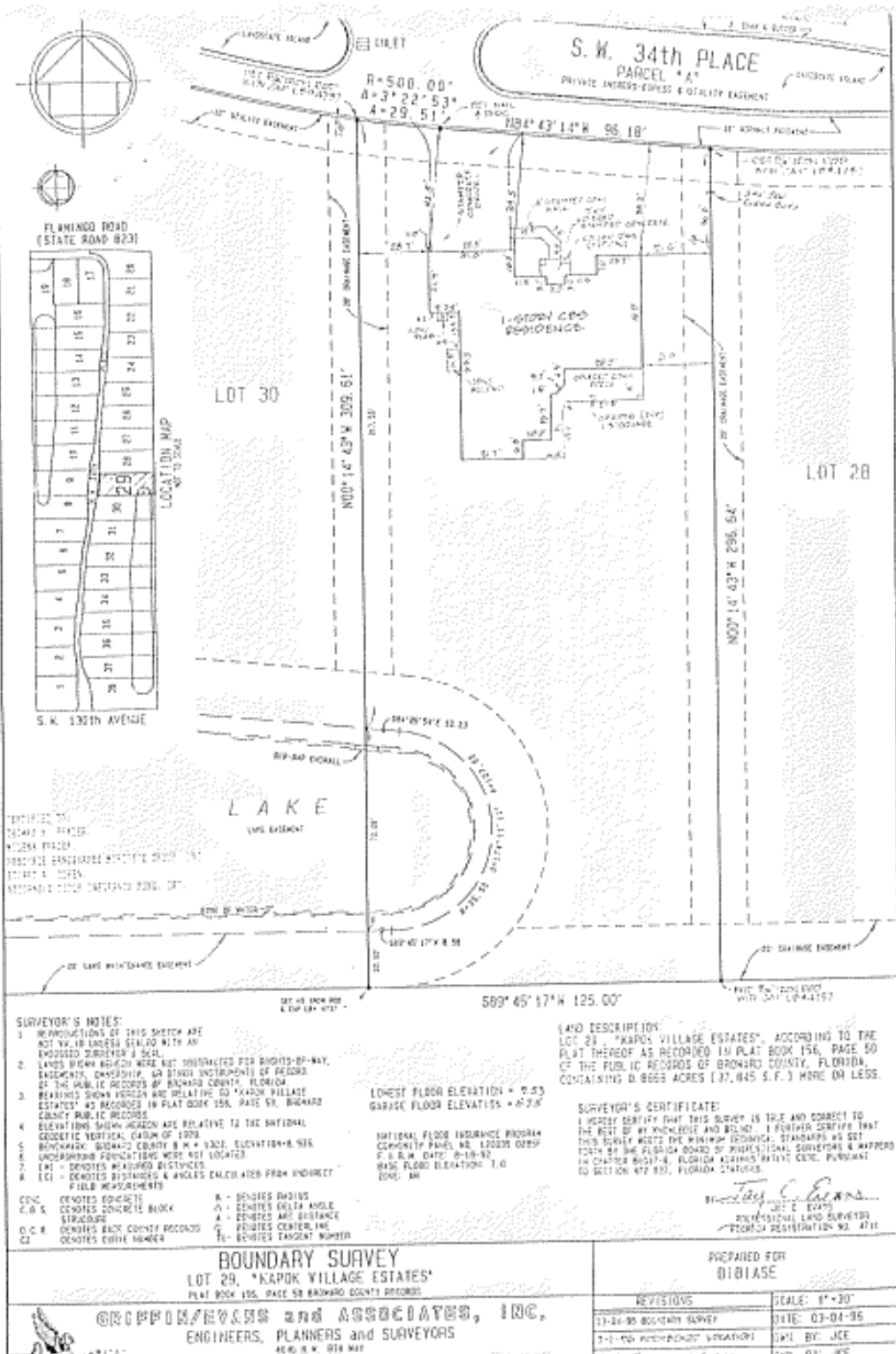
The Planning and Zoning Board recommended approval of application V 3-1-00 at its April 12, 2000 meeting (motion carried 4-0, Chairman Greb absent).

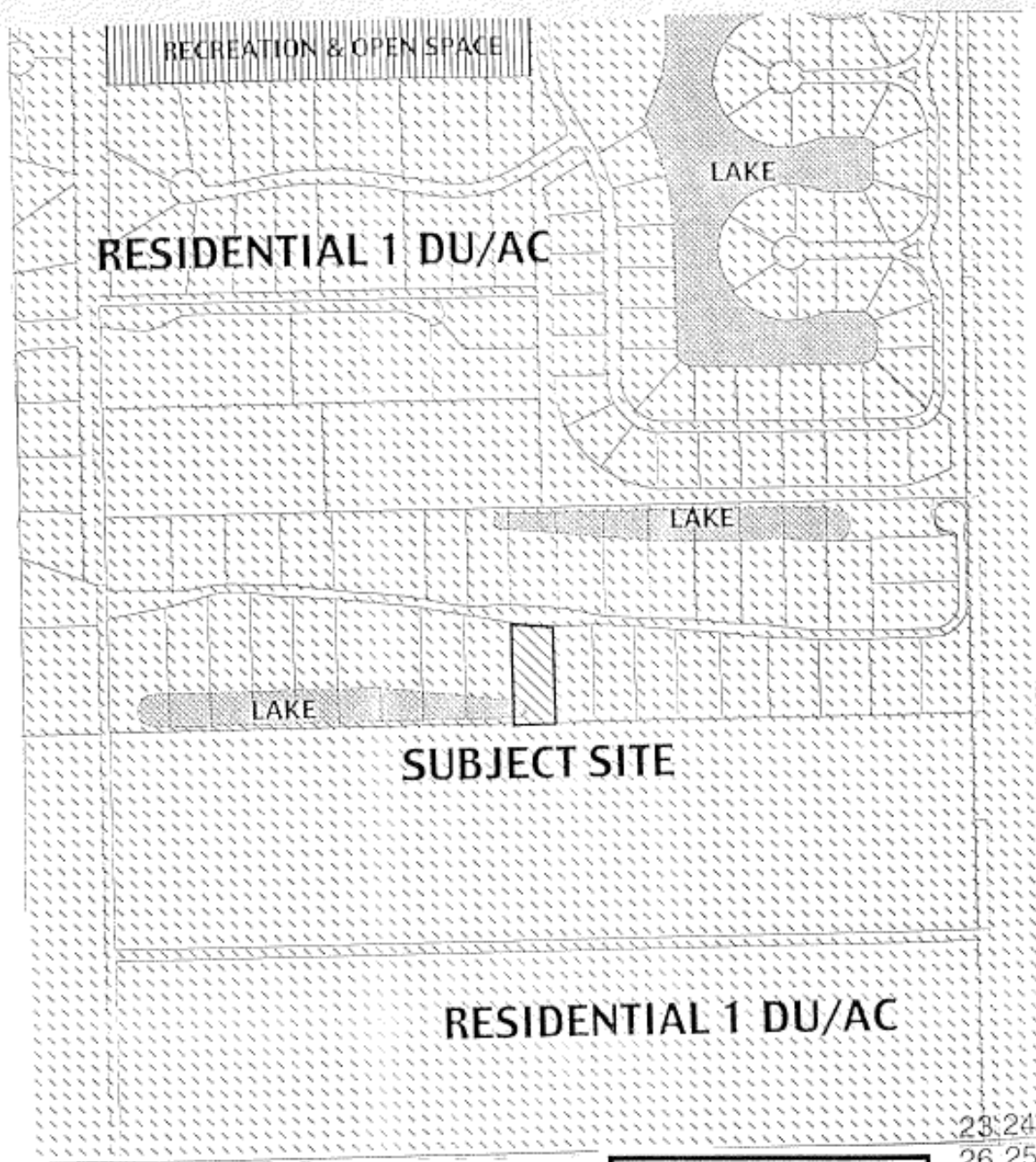
Exhibits

1. Subject Site Plot Plan
2. Land Use Map
3. Subject Site Map
4. Aerial

Prepared by: _____

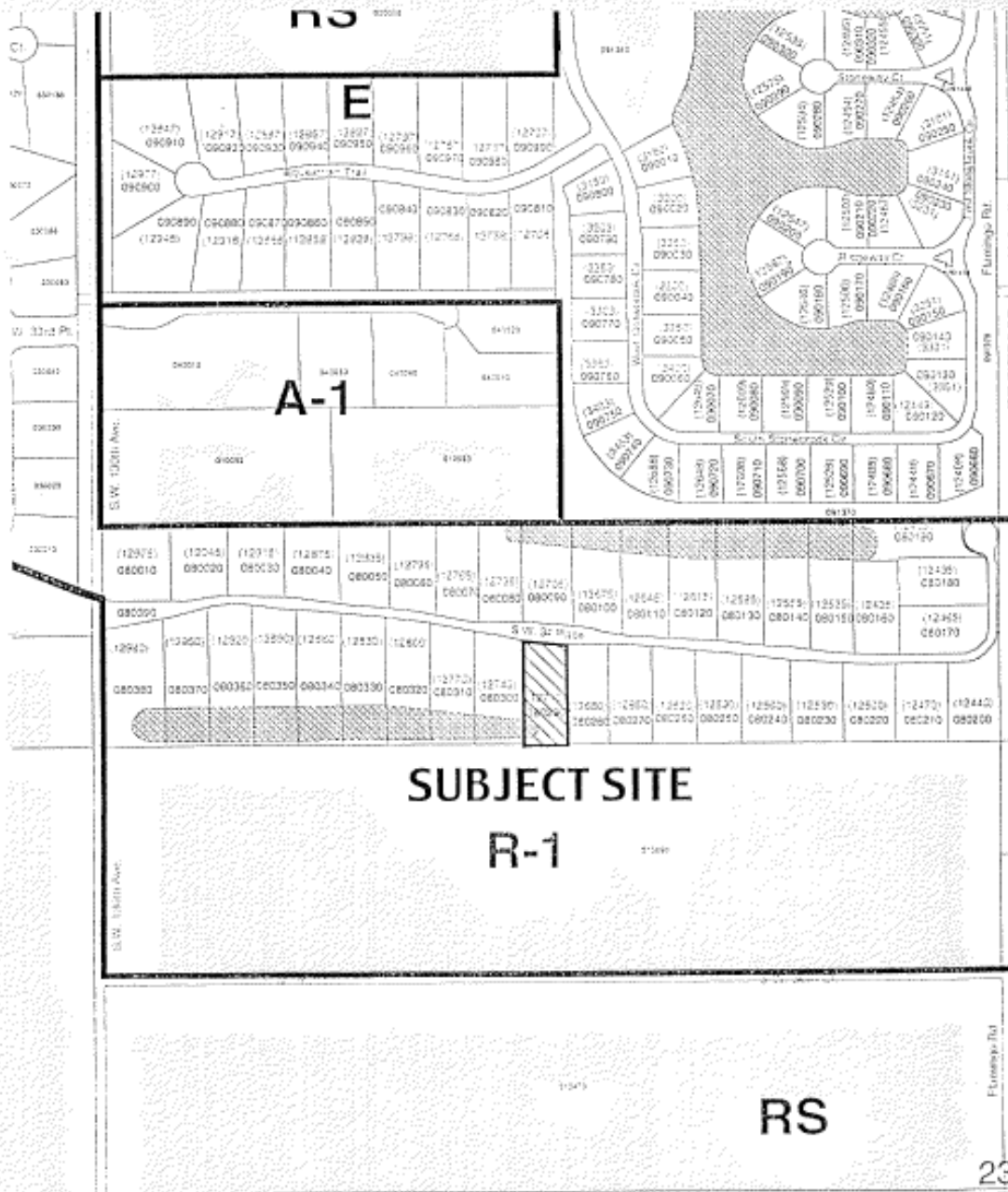
Reviewed by: _____





PETITION NUMBER
V 3-1-00
Source Town of Davis Future Land Use Map
PREPARED 3/27/00 Scale: 1"=300'
BY THE PLANNING &
ZONING DIVISION

N
4



PETITION NUMBER		N
V 3-1-00		4
PREPARED 3/27/00		Scale 1"=300'
BY THE PLANNING & ZONING DIVISION		

23 24
26 25

